



# **SCHOOL BOARD ACTION REPORT**

**DATE:** May 10, 2020  
**FROM:** Denise Juneau, Superintendent  
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**For Introduction:** June 24, 2020  
**For Action:** July 8, 2020

## **1. TITLE**

Approval of new Board Policy No. 3211, Gender-Inclusive Schools: Transgender and Gender-Expansive Student Rights and Supports

## **2. PURPOSE**

This Board Action Report details new Board Policy No. 3211, Gender-Inclusive Schools: Transgender and Gender-Expansive Student Rights and Supports, which will provide a stand-alone policy for the rights and supports provided by the district to transgender and gender-expansive students detailed in 3210SP.C and to respond to new requirements in State law. If this policy is approved by the Board, the entirety of Superintendent Procedure 3210SP.C will shift to be the Superintendent Procedure for this policy, Board Policy No. 3211.

## **3. RECOMMENDED MOTION**

I move that the School Board approve Board Policy No. 3211, Gender-Inclusive Schools: Transgender and Gender-Expansive Student Rights and Supports, as attached to the Board Action Report.

## **4. BACKGROUND INFORMATION**

### **a. Background**

Seattle Public Schools is a national leader in providing rights and supports to transgender and gender-expansive students. In 2012, the district established Superintendent Procedure 3210SP.C under Board Policy No. 3210, Nondiscrimination, Acts of Hostility and Defamation. This Superintendent Procedure provides rights to transgender and gender-expansive students including, but not limited to, the following:

- i. The right to be referred to be addressed by the name and pronoun that corresponds to the gender identity asserted at school.
- ii. The right to use the restroom and locker room that corresponds to the gender identity asserted at school.
- iii. The right to participate in the physical education courses and sports teams that are consistent with the gender identity asserted at school.

- iv. The right of a student or their parent/guardian to request to change the gender on their educational record to accurately reflect their gender identity.
- v. The right of a student to not be contacted or disciplined for wearing clothing perceived not to be consistent with their gender identity as indicated in 3210SP.C and Board Policy 3224, Student Dress.

In addition, the district is a leader in the implementation of gender-neutral, multiple-stall restrooms for student use that often provide a less intimidating and more welcoming restroom environment for all students, including those who are transgender and gender-expansive, to use at school.

This work is in support of the goal of our strategic plan for students of color who are furthest from educational justice to feel safe and welcome at school. It is well-known and supported by research that the bias felt by all LGBTQ youth is often more severe for students of color who live at the intersection of racism, homophobia, and transphobia. By openly and actively supporting those whom society is most likely to subject to negative bias and prejudice, we send a clear message to all 53,000 students of Seattle Public Schools that we support every difference that makes each of our students special.

During the 2019 regular session, the Washington State legislature passed Senate Bill 5689 concerning harassment, intimidation, and bullying and discrimination in public schools. Now codified into RCW 28.642.080, the law requires that each school district must adopt or amend policies and procedures that at a minimum incorporate the Washington State School Directors' Association (WSSDA) model "Gender-Inclusive Schools" policy and procedure, 3211/3211P. This policy and procedure are updated versions of WSSDA's formally titled "Transgender Students". This proposed new SPS policy will comply with this new requirement of state law and the district's Superintendent Procedure 3210SP.C will now support this new policy and be recodified as 3211SP.

**b. Alternatives**

Not approve the new policy. This is not recommended as implementation of a policy in support of transgender and gender-expansive students is a requirement of new state law.

**c. Research**

*LGBT Youth of Color: Discipline Disparities, School Push-Out, and the School-to-Prison Pipeline*, GSA Network ([https://gsanetwork.org/wp-content/uploads/2018/08/LGBTQ\\_brief\\_FINAL.pdf](https://gsanetwork.org/wp-content/uploads/2018/08/LGBTQ_brief_FINAL.pdf)).

*Some Considerations When Working with LGBT Students of Color*, Gay, Lesbian & Straight Education Network, 2003-2012 ([https://www.glsen.org/sites/default/files/LGBT\\_studentsofcolor.pdf](https://www.glsen.org/sites/default/files/LGBT_studentsofcolor.pdf)).

**5. FISCAL IMPACT/REVENUE SOURCE**

Fiscal impact to this action will be: N/A. This policy does require the Manager of Health Education to receive training that will be provided by OSPI. It is not expected to have a financial impact to the district.

The revenue source for this motion is: N/A.

Expenditure:  One-time  Annual  Multi-Year  N/A

Revenue:  One-time  Annual  Multi-Year  N/A

## 6. COMMUNITY ENGAGEMENT

With guidance from the District's Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult/Involve

Tier 3: Collaborate

It was determined that this policy merited Tier 1 community engagement because it is for legal compliance and extensive community engagement occurred in the development of and recent revisions to associated Superintendent Procedure 3210SP.C which contains the majority of actionable content. Over the development process of the procedure, district staff collaborated with multiple student and community groups as well as individual student leaders to receive feedback and proposed revisions to the procedure content. Students from Jane Addams Middle School, Nathan Hale High School, Garfield High School, NOVA High School, and Washington Middle School provided input into the current 3210SP.C.

## 7. EQUITY ANALYSIS

Using the racial equity analysis tool, it was determined that this policy should have a positive impact on our students of color. The bias felt by all LGBTQ youth is often more severe for students of color who live at the intersection of racism, homophobia, and transphobia. As a result, this policy should help to provide school environments where transgender and gender-expansive students of color believe they are welcomed and safe.

However, it is important to recognize that as a society, LGBTQ support and services often ignore persons of color. For example, promotional materials for LGBTQ services will usually portray images of attractive white cisgender gay males, ignoring the diversity that exists with the LGBTQ community. As a result, it is important that in our work to support LGBTQ students, we must always consider if we are using the appropriate channels and methods to reach all who could benefit and not solely use the methods that work for a white audience.

**8. STUDENT BENEFIT**

This Board action benefits students by elevating the visibility for the valuable rights and supports that we provide for transgender and gender-expansive students. Transgender and gender-expansive students are most likely to be subjected to bias and prejudice in their lives. By formalizing the district’s support of transgender and gender-expansive students in Board Policy, we send a clear message of support for these students making it a valuable component in providing a safe and welcoming school environments to our transgender and gender-expansive students.

**9. WHY BOARD ACTION IS NECESSARY**

- Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)
- Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)
- Adopting, amending, or repealing a Board policy
- Formally accepting the completion of a public works project and closing out the contract
- Legal requirement for the School Board to take action on this matter
- Board Policy No. \_\_\_\_\_, [TITLE], provides the Board shall approve this item
- Other: \_\_\_\_\_

**10. POLICY IMPLICATION**

This motion would adopt a new Board policy – No. 3211.

Policy No. 3210, Nondiscrimination, Acts of Hostility & Defamation: This policy currently is associated with Superintendent Procedure 3210SP.C, Nondiscrimination and Affirmative Action: Transgender and Gender-Expansive Student Rights and Supports. Upon approval of this motion, 3210SP.C will be recodified as 3211SP.

**11. BOARD COMMITTEE RECOMMENDATION**

This motion was discussed at the Curriculum & Instruction Policy Committee meeting on June 9, 2020. The Committee reviewed the motion and moved the item forward with a recommendation for approval by the full Board.

**12. TIMELINE FOR IMPLEMENTATION**

Upon approval of this motion, new Board Policy No 3211 go into immediate and effect and will be posted to the district website. Superintendent Procedure 3210SP.C will be recodified as 3211SP and titled Gender-Inclusive Schools: Transgender and Gender-Expansive Student Rights and Supports.

**13. ATTACHMENTS**

- Board Policy No. 3211, Gender-Inclusive Schools: Transgender and Gender Expansive Student Rights and Supports (for approval)
- Superintendent Procedure No. 3210SP.C, Nondiscrimination and Affirmative Action: Transgender and Gender-Expansive Student Rights and Supports (for reference)
- WSSDA Model Policy 3211, Gender-Inclusive Schools (for reference)

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|  | <p>GENDER-INCLUSIVE<br/>SCHOOLS:<br/>TRANSGENDER AND<br/>GENDER-EXPANSIVE<br/>STUDENT RIGHTS AND<br/>SUPPORTS</p> | <p>Policy No. 3211<br/><br/>[DATE]<br/><br/>Page 1 of 2</p> |
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The Seattle School Board believes all students need a safe and supportive school environment to progress academically and developmentally. Administrators, staff, and students each play an important part in creating and sustaining that environment. This policy and its associated Superintendent Procedure are intended to help administrators and staff take steps to create a culture in which transgender and gender-expansive students feel safe, supported, and fully included, and to meet each school’s obligation to provide equal educational opportunities for all students.

To that end, the Board recognizes the importance of an inclusive approach for transgender and gender-expansive students with regard to key terms, the use of names and pronouns, student records, confidential health and education information, communication, restroom and locker room use and accessibility, sports and physical education, student dress, field trips, and other school activities.

This policy will be implemented in conjunction with comprehensive procedures to guide this initiative. The Board recognizes it is important the procedures are subject to ongoing review and refinement to anticipate, and respond to, the specific needs of transgender and gender-expansive students.

The Superintendent or their designee is granted the authority to develop the procedures to implement this policy. The Superintendent Procedures shall at a minimum detail:

1. The steps to be taken, and the rights to be extended, to create inclusive school environments for transgender and gender-expansive students;
2. The name of the district’s Manager of Health Education who will serve as the primary contact for this policy; and
3. The Manager of Health Education will obtain OSPI training, receive copies of all formal and informal complaints regarding harassment, intimidation, or bullying and/or discrimination of transgender and gender-expansive students, and oversee policy implementation.

Adopted: [date]

Revised:

Cross Reference: Policy Nos. 3207; 3210

Related Superintendent Procedure: 3211SP

Previous Policies:

Legal References: RCW 28A.642 Discrimination Prohibition; 20 U.S.C. 1232g, 34 C.F.R., Part 99  
- Family Education Rights and Privacy Act

DRAFT

# Superintendent Procedure 3210SP.C

## **Nondiscrimination and Affirmative Action: Transgender and Gender-Expansive Student Rights and Supports**



Approved by:     s/Denise Juneau     Date:   3/5/2020    
Denise Juneau, Superintendent

This procedure is to advise District staff regarding the rights and supports Seattle Public Schools provides transgender and gender X, gender-expansive, students. Its purpose is to create a safe, welcoming, and inclusive learning environment for all students, and to ensure that every student has equal access to all components of their educational program.

This procedure does not anticipate every situation that might occur. Rather, it offers suggested approaches to specific instances when there may be implications regarding the protection or the safety of transgender and gender X, gender-expansive, students.

### **PRIMARY CONTACT**

The Manager of Health Education is designated as the District’s primary contact regarding this procedure and its associated policy in relation to transgender and gender X students. The primary contact will receive copies of all informal and formal complaints regarding transgender students. As primary contact, the Manager of Health Education will receive training required by RCW 28A.642.080. All questions regarding the application of this procedure should be directed to the Manager of Health Education.

### **DEFINITIONS**

Note: The following definitions provided are not meant to label students, but instead are intended as functional descriptors.

**“Assigned sex at birth”** refers to the sex a person was given at birth, usually based on anatomy or chromosomes (e.g. male, female, intersex, or X).

**“Cisgender”** is a term used to describe people whose assigned sex at birth matches their gender identity and/or gender expression (e.g., a person who was assigned female at birth and whose gender identity and/or gender expression is also female).

**“Gender identity”** refers to a person’s internal and deeply felt sense of being female, male, both, or neither. Persons may identify as nonbinary, gender-expansive, or other -- regardless of their assigned sex at birth. The District records the gender identity of students one of three ways: male, female, or X.

**“Gender-Expansive”** refers to a wider, more flexible range of gender identities than those typically associated with the binary (male or female) gender system. People who are gender-expansive may use a variety of terms including nonbinary or others to describe their gender identity. For the District, the gender X designation is inclusive of all identities associated with a gender-expansive identity.



**“Gender expression”** refers to the way a person expresses their gender, often through behavior, gestures, emotional expression, movement, dress and grooming.

**“Transgender”** is a general term used to describe a person whose gender identity or expression is different from that traditionally associated with the person’s assigned sex at birth.

**“Transitioning”** is the process in which a person goes from living and identifying as one gender to living and identifying as another.

## **SUMMARY**

Washington State law and District policy require that all programs, activities, and employment practices be conducted without discrimination based on sex, sexual orientation, gender expression, or gender identity. Furthermore, and as a general rule, decisions regarding assignment, participation, and use in Seattle Public Schools are determined pursuant to a student’s gender identity and not their assigned sex at birth.

Our schools are expected to implement Washington State law and District policy in the following ways:

- **Names/Pronouns:** Students have the right to be addressed by the name and pronoun that corresponds to their gender identity consistently asserted at school.
- **Name on Educational Records:** A parent/guardian or eligible student (18 years of age or older) may request to have the legal name changed on their educational record at Enrollment Services located at John Stanford Center for Educational Excellence (JSCEE).
- **Gender on Educational Records:** A student or their parent/guardian may request to have the gender changed on their educational record at Enrollment Services located at JSCEE.
- **Restroom Accessibility:** Students have the right to use the restroom that corresponds to the gender identity they consistently assert at school. Students who identify as gender X have the right to use the restroom the student determines to best align with their gender identity.
- **Locker Rooms:** Students have the right to use the locker room that corresponds to the gender identity they consistently assert at school. Students who identify as gender X have the right to use the locker room the student determines to best align with their gender identity.
- **Physical Education Courses and Club Sports:** Students have the right to participate in physical education courses and club sports in a manner consistent with the gender identity they consistently assert at school.
- **Interscholastic Athletic Teams:** Transgender students have the right to participate on the interscholastic athletic team consistent with the gender identity they consistently assert at school.
- **Student Dress:** Students will not be contacted or disciplined for wearing clothing perceived to be not consistent with their gender identity. All student attire, and the enforcement of student attire is determined by Board Policy No. 3224 and its associated Superintendent Procedure.
- **Overnight Field Trips:** Students have the right to be assigned to overnight accommodations in accordance with the gender identity they consistently assert at school. Staff will never assign students to shared sleeping accommodations

when they are aware of a romantic interest or relationship between the students assigned.

- **Gender Segregation in Other Areas:** As a general rule, schools should consider options to avoid separating students by gender unless necessary. In circumstances where students are separated by gender in school activities, students have the right to participate in accordance with the gender identity they consistently assert at school.

## **GUIDELINES**

### **Issues of Privacy:**

All persons have a right to privacy; this includes keeping a student's transgender or gender X status private. Information about a student's gender identity, legal name, or assigned sex at birth may constitute confidential medical or educational information. Disclosing this information to others may violate privacy laws, including the federal Family Education Rights and Privacy Act (FERPA) (20 U.S.C. s 1232g; 34 C.F.R. Part 99). Therefore, to ensure student safety and well-being, and to provide identity-safe schools for all, staff should not disclose a student's transgender or gender X status to others unless (1) legally required to do so or (2) the student has authorized disclosure.

Whenever speaking with a transgender or gender X student about a particular issue such as conduct, discipline, grades, attendance, or health, focus on the conduct or particular issue and avoid making assumptions regarding the student's actual or perceived gender identity. Further, when contacting the parents/guardians of a transgender or gender X student and it is unclear whether the student asserts the same gender identity at home, it is best practice to avoid using gender pronouns. For example, one could say, "I am concerned about P.J.'s attendance," rather than, "I am concerned about his attendance."

### **Official Records:**

The District is required to maintain a permanent student education record which includes the legal name of the student and the student's gender. A parent/guardian (or eligible student over 18 years old) may request a change to a student's recorded legal name. A student or their parent/guardian may request a change to their recorded gender. Requests for name and gender changes are accepted and processed at JSCEE Enrollment Services.

- **Legal Name:** The District will change a student's legal name on their education record when a parent/guardian or eligible student (over age 18) provides documentation of a legal name change, such as documentation of a court-ordered name change or an affidavit of name change made pursuant to common law. Affidavit of name change templates are available from JSCEE Enrollment Services.
- **Gender:** A Seattle Public Schools student has the right to have the gender on their educational record reflect their gender identity consistently asserted at school. For educational purposes, there are no legal requirements surrounding gender. The District will change a student's gender on their education record upon request from the student or their parent/guardian upon completion of an enrollment form at JSCEE Enrollment Services.

Upon the receipt of all required documentation, the Admissions Center will ensure that all student systems are updated to reflect changes in name and/or gender, e.g. PowerSchool and The Source.

To the extent that the District is not legally required to use a student's legal name on school records or documents, the District will use the name by which the student identifies. In situations where school staff or administrators are required by law to use or report a student's legal name, such as for standardized testing, school staff should adopt practices to avoid the inadvertent disclosure of such confidential information.

### **Names/Pronouns:**

Students have the right to be addressed by a name and pronoun corresponding to the gender identity they consistently assert at school. The District uses the term "preferred name" to reference names corresponding to gender identity that are different from a student's legal name on their educational record. A Student or their parent/guardian are not required to change their gender, and a parent/guardian is not required to legally change their student's name, as a prerequisite for the student to be addressed by the name and pronoun that corresponds to their gender identity.

The District acknowledges that initially, inadvertent slips or honest mistakes in the use of the preferred names or pronouns might occur but will not condone an intentional and persistent refusal to respect a student's gender identity. The student's preferred name will be included in the electronic student record system along with the student's legal name to inform teachers of the name and pronoun to use when addressing the student.

### **Restroom Accessibility:**

Students have the right to use the restroom that is consistent with the gender identity they consistently assert at school. Students who identify as X, gender-expansive, will be provided access to the restroom that the student determines to best align with their gender identity. Further, all students regardless of the underlying reason who have a need or desire for increased privacy should be provided access to an alternative restroom (e.g., staff restroom or health office restroom). This allows students who may feel uncomfortable sharing the facility with transgender or gender X student(s) the option to make use of a separate restroom and have their concerns addressed without stigmatizing any individual student. No student, however, should be required to use an alternative restroom because they are transgender or gender X.

If school administrators have legitimate concerns about the safety or privacy of students, as related to a transgender or gender X (gender-expansive) student's use of the restroom or locker room, school building administrators should bring these concerns to the Manager of Health Education. Such privacy or safety issues should be immediate and reasonably foreseeable, not speculative. School building administrators and/or the Manager of Health Education should meet with the student and/or parents/guardians to determine if there is a need for an alternative facility. The decision to provide an alternative facility for any student will be determined on a case-by-case basis.

### **Locker Room Accessibility:**

All students have the right to use the locker room that corresponds with the gender identity they consistently assert at school. Students who identify as X (gender-expansive) will be provided access to the locker room that the student determines to

best align with their gender identity. However, if there is a reason or desire for increased privacy and safety, regardless of the underlying reason, any student should be provided access to a reasonable alternative locker room. Reasonable alternative locker rooms include, but are not limited to:

- Use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, an office in the locker room, or a nearby health office restroom).
- A separate changing schedule (either utilizing the locker room before or after the other students).

For transgender and gender X students, any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender or gender X status private. However, no student should be required to use a locker room that conflicts with his or her gender identity.

### **Physical Education, Club Sports, and Interscholastic Athletics:**

Students have the right to participate in physical education courses and club sports consistent with the gender identity they consistently assert at school. Further, subject to the participation policies of the Washington Interscholastic Activities Association (WIAA) for high school interscholastic athletics, transgender students have the right to participate on the interscholastic athletic team consistent with the gender identity they consistently assert at school.

In circumstances where physical education courses and club sports are gender specific and there is not a gender X option, students who identify as gender X have the right to participate in the course and/or on the club sport team that the gender X student determines best aligns with their gender identity.

### **Student Dress:**

Providing students an environment where they can express their identity through their attire is a value of the District and an important element in providing identity-safe spaces for students. Board Policy No. 3224, Student Dress, provides that all Seattle Public Schools' students have the right to be treated equitably and dress code enforcement will not be more strictly enforced against students because of their gender identity, gender expression, or gender nonconformity.

### **Overnight Field Trips:**

In situations where students are separated by gender for overnight accommodations, all students will be assigned to accommodations in accordance with the gender identity they consistently assert at school (M, F, or X). In situations where there are not overnight accommodations identified for gender X students, the student will determine the gendered overnight accommodations that best align with their gender identity. A school will not require transgender or gender X students to stay in single-occupancy accommodations or disclose personal information when not required of other students. However, this does not prevent a school from honoring any student's voluntary request for single-occupancy accommodations if they so choose.

Note: A staff member will never assign students to shared sleeping accommodations when they are aware of a romantic interest or relationship between the students assigned.

### **Gender Segregation in Other Areas:**

Teachers/school employees should make every effort to separate students based on factors other than gender when possible. Listed below are examples of common situations where students are separated by gender where there are other reasonable alternatives:

- **Class Discussions:** Students can be divided by birth month or birth order instead of gender.
- **Graduations:** Students should be divided their color preference instead of assigned a graduation gown color based on their gender.
- **Calling for Students' Attention:** Instead of using gendered phrases to get students' attention such as "girls and boys," "you guys," and "ladies and gentlemen," it is recommended to use phrases such as "calling all readers," "could all the athletes/scholars/learners come here."

Activities that may involve the need for accommodations to address student privacy concerns should be addressed on a case-by-case basis. In such circumstances, staff shall make reasonable efforts to provide an accommodation that addresses any such concerns.

### **Variations:**

Recognizing that this procedure's goal is to provide for the safety and protection of transgender and gender X students, the rules provided may not always be appropriate to apply in every situation. Therefore, for any given situation, the parent/guardian of a transgender or gender X student, a transgender or gender X student, and/or school principal may request a procedure variation from the Manager of Health Education. Upon request for a procedure variation, the Manager of Health Education will consult with District legal counsel and determine whether to grant the variation. A decision to deny a procedure variation may be appealed to the Superintendent. The decision of the Superintendent is final.

Approved: December 2012

Revised: February 2015; August 2016; December 2016; June 2017; March 2020 (typo corrected April 14, 2020)

Cross Reference: Policy Nos. 2145; 3207; 3210; 3224; Supt Proc. 3210SP.A; Supt. Proc. 3210SP.B; Supt. Proc. 3224SP

RCW 28A.642, Discrimination prohibition; WAC 392-190 WAC; RCW 49.60 RCW, Washington Law Against Discrimination; Prohibiting Discrimination in Washington Public Schools - OSPI Guidelines for school districts to implement Chapters 28A.640 and RCW 28A.642 and WAC 392-190 (February 2012); 20 U.S.C. 1232g, Family Education Rights and Privacy Act; 34 C.F.R. Part 99; U.S. Department of Education Office for Civil Rights, Dear Colleague Letter: Transgender Students (May 2016).

## **Gender-Inclusive Schools**

The board believes in fostering an educational environment that is safe and free of discrimination for all students, regardless of gender expression, gender identity, or sex. To that end, the board recognizes the importance of an inclusive approach toward transgender and gender-expansive students with regard to key terms, communication and the use of names and pronouns, student records, confidential health and education information, communication, restroom and locker room use and accessibility, sports and physical education, dress codes, and other school activities, in order to provide these students with an equal opportunity for learning and achievement.

This policy is a component of the district's responsibility to create and maintain a safe, civil, respectful and inclusive learning community and will be implemented in conjunction with comprehensive training of staff and volunteers. Specific training requirements are included in the accompanying procedure. The superintendent will appoint a primary contact to receive copies of all formal and informal complaints and ensure policy implementation. The name and contact information for the compliance officer will be communicated throughout the district. The district compliance officer will participate in at least one mandatory training opportunity offered by OSPI

This policy and its procedure will support that effort by facilitating district compliance with local, state and federal laws concerning harassment, intimidation, bullying, and discrimination.

Cross References:                    2145 - Suicide Prevention  
    3207 - Prohibition of Harassment, Intimidation, and Bullying  
    3210 - Nondiscrimination  
    3231 - Student Records

Legal References:                    RCW 28A.642 Discrimination Prohibition  
    20 U.S.C. 1232g, 34 C.F.R., Part 99 - Family Education  
    Rights and Privacy Act

Management Resources:            2014 - December Issue  
    2013 - December Issue  
    Prohibiting Discrimination in Washington Public Schools -  
    OSPI Guidelines for school districts to implement Chapters  
    28A.640 and 28A.642 RCW and Chapter 392-190 WAC  
    (February 2012)

Adoption Date:  
Classification: **Essential**  
Revised Dates: **12.13; 12.14; 07.19**

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